

Claim 10 of U.S. Patent No. 6,085,192	Claim construction <sup>1</sup>	Lotus Notes <sup>2</sup>
10. A system comprising:	This term means a system.	<p>Yes, Lotus Notes discloses use of this software in a system.</p> <p>"Lotus Development Corporation, the makers of Notes, refers to Notes as a document database, but don't let this terminology lead you to think that Notes is just a version of a traditional database. It's more useful to think of Notes as a way of organizing documents and making them accessible to groups of people than as a kind of database in the traditional sense of the word." (BBB page xxviii) "A way of organizing ... and making .. accessible" would be understood by a person of ordinary skill in the art ("POSA") as constituting a system.</p>
a communications channel through a firewall comprising one of an HTTP port and an SSL port:	The Texas Court defined "communications channel" to mean 'a medium for transferring information. A communications channel can be a physical or wireless link.'" Order at 12.	<p>Lotus Notes discloses a communications channel through a firewall using either an HTTP or an SSL port.</p> <p>Establishment of a physical communications channel: "Before you can use your modem to send and receive mail or exchange data</p>

<sup>1</sup> For purposes of Visto's preliminary injunction motion, for my analysis, for terms construed by the Texas Court in Visto v. Seven Networks, I adopted the Texas Court's construction.

<sup>2</sup> Lotus Notes is a system that has been available since the early 1990s. The documents below describe the functionality of Lotus Notes.

BBB: Kevin Brown, Kenyon Brown & Kyle Brown, "Mastering Lotus Notes", SYBEX, 1995, ISBN 0-7821-1302-8 (a copy is attached to the Declaration of Stephen Weinstein ("Weinstein Decl.") as Exhibit H).

PG: Paul Grous, "Creating and Managing a Web Site with Lotus' InterNotes Web Publisher", THE VIEW, Sept/Oct 1995, Wellesley Information Services (a copy attached as Weinstein Decl., Ex. I).

LNIC: D. Mathers & D. Newbold (formerly of Iris Associates which was acquired by Lotus/IBM) "Lotus Notes Internet Cookbook for Notes Release 3", Jan. 16, 1996 (a copy attached as Weinstein Decl., Ex.J).

	<p>The Texas Court defined ““firewall” to mean ‘software and/or hardware for protecting an organization’s network against external threats, such as hackers, coming from another network, such as the Internet.”” Order at 14-15.</p> <p>Thus, this term means a medium for transferring, physically or wirelessly, information through a network protection mechanism implemented via software and/or hardware, where the medium includes a tunnel (encapsulating any desired protocol data unit within an HTTP or HTTPS (SSL) protocol data unit that is granted passage through the network protection mechanism using its designated port). A port is a transport-level address, within a host computer, corresponding to a particular application such as Web browsing using HTTP.</p>	<p>between databases, you must “prepare” Notes by identifying some important communication settings.” (BBB p. 205). The communication settings include “2. Identify your home server”, establishing that this is a communication channel between a client and a server.</p> <p><u>Use of higher-layer data networking that can support HTTP and SSL:</u> “This means that a Notes Client with a SLIP, PPP or direct connection to the Internet can access a Notes Server via the Internet using the TCP network driver.” (PG p. 1) “You can install and configure TCP/IP on an existing Notes server or a new Notes server.” (LNIC Section 3.3)</p> <p><u>A communication channel through the firewall using HTTP or SSL port:</u> Lotus Notes “supports TCP/IP as one of it’s [sic] native protocols.” PG at 3. By supporting TCP/IP, Notes could communicate via an HTTP or an SSL port since HTTP and SSL are normally supported by an IP protocol stack. PG describes communication via an HTTP port as follows: “Figure 6 illustrates the flow of content when published from Notes into HTML. Working from left to right, you can see that content is created by any Notes Client and saved in databases on any Notes Server. The databases are then replicated through a firewall to another Notes Server running Web Publisher. In this example, the same machine is also running an HTTP server. This machine has a full time TCP/IP connection to the Internet, where Web browsers on all</p>
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		<p>platforms can access and read the HTML pages published on the HTTP server. Web Publisher automatically updates information on your web site and keeps the HTML in synch with the Notes databases." PG at 8-9.</p>
a general synchronization module for operating within a first firewall and for examining first version information to determine whether a first workspace element at a first store has been modified;	<p>The Texas Court defined “‘general synchronization module’ to mean ‘software routines or code that perform the task of determining whether a workspace element and/or an independently modifiable copy thereof (or have) been modified, based on one or more criteria.’” Order at 16.</p> <p>The Texas Court stated that “version information means ‘information that can be used to determine the version of a workspace element.’” Order at 26.</p> <p>The Texas Court defined “workspace element” as “‘a subset of workspace data such as an e-mail, file bookmark, calendar, or applications program which may include version information.’” Order at 22.</p> <p>The Texas Court defined “the term ‘store’ as a ‘storage location for data that may reside on any type of memory device.’” Order at 24.</p>	<p>Lotus Notes discloses software operating at the server (within a firewall) for examining version information to determine whether a document has been modified.</p> <p><u>Workspace element:</u> "A document is the fundamental unit of information in a Notes database." (BBB p. 33)</p> <p>Multiple workspace elements (including a first one) maintained in stores (including a first one):</p> <p>"Replication is a process that lets a group of people access a database on a network and work on it at the same time, while ensuring that the database remains up-to-date. .. Briefly, each time you need to work on a database that's stored on a Notes server, you can make a copy of it and then save it to your own computer." (BBB p. 34) "You can create a partial or full replica of any shared database. A partial replica contains a subset of the documents in the source database ..." (BBB p. 571)</p> <p>A person of ordinary skill in the art (“POSA”) would understand that “working on a database” means working on the documents (workspace elements) within the database, and that to “save it to your own computer” means to save it in a store. The original database document remaining on the Notes server would be understood by a</p>

		<p>POSA as the first workspace element at a first store.</p> <p><u>Version information as changes made in a workspace element and/or date:</u> "Notes compares the different copies of the same database and saves the most recent version (according to the date the changes were made) or the version with the most changes." (BBB p. 35)</p> <p><u>General synchronization module:</u> The above quote denotes as "Notes" the entity that compares and synchronizes the different versions. A POSA would understand that this is a server function, and that "compare" implies examination of first version information (changes and/or date) in the database version existing (and thus stored) at the server.</p> <p><u>Operating within a first firewall:</u> See comments made in "A communication through a firewall" box above.</p>
a synchronization agent for operating outside the first firewall and for forwarding to the general synchronization module second version information which indicates whether an independently modifiable copy of the first workspace element at a second store on a smart phone has been modified.	<p>The Texas Court defined "synchronization agent" to be "software routines or code that sent at least a portion of second version information to a general synchronization module for purposes of synchronization." Order at 25.</p> <p>The Texas Court defined "independently modifiable copy" to mean 'a copy of a workspace element capable of being modified independent of the workspace element. The</p>	<p>Lotus Notes disclose software at a client to forward version information to the server which indicates whether a copy has been modified.</p> <p><u>Synchronization agent:</u> "You can add or delete information if you choose and regularly send your changes back to the server. Through replication, also known as database exchange, Notes incorporates your changes and the changes made by others, and so keeps the database current." (BBB pp. 34-35)</p> <p>A POSA would understand that the Lotus software module regularly</p>

	<p>copy of the workspace element does not have to be in the same format as the workspace element." Order at 17. The Court rejected Visto's proposal that "[t]he copy does not have to be an exact copy." Order at 16-17.</p>	<p>sending changes back to the server is a synchronization agent.</p> <p><u>Second workspace element:</u> "Although people can use a database at the same time, each person can actually work with a copy - or replica - of the database on his or her own computer." (BBB p. 35) "You can use Dial-up Notes to work <i>locally</i>, wherever you are, because you can make local replicas (exact copies of shared databases) and then work on these replicas." (BBB p. 204).</p> <p>A POSA would understand "working with a copy ... on his or her own computer" and "work locally" to mean that the second version information is independently modifiable.</p> <p><u>Second version information</u> consists of at minimum the number of changes made independently and one or more time stamps, as implied in "Notes compares the different copies of the same database and saves the most recent version (according to the date the changes were made) or the version with the most changes." (BBB p. 35)</p> <p><u>Outside the firewall:</u> A POSA would understand that a dial-up client, described in the second paragraph above as "Dial-up Notes", is outside the firewall protecting the server that is described in the "communication channel through a firewall" box above.</p> <p><u>Synchronization agent</u> forwarding second version information, as illustrated by this representative</p>
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		<p>screen display of instructions to the synch agent to implement regularly scheduled version information forwarding:</p> <p><u>"Scheduled calling"</u></p> <p>Enabled/Disabled: SCHEDULE ENABLED</p> <p>Call at time: 08:00AM-06:00PM, each day</p> <p>Repeat interval of: 360, minutes</p> <p>Days of week: Mon, Tue, Wed, Thu, Fri, Sat, Sun</p> <p>Tasks: Replication, Mail routing</p> <p>Route at once if: "5, mail messages pending</p> <p>Routing cost: 5</p> <p>Replicate databases of priority: Low &amp; Medium &amp; High" (BBB, Fig. 10.1, p. 206)</p> <p>The second version information forwarding is included in "replicate databases", as confirmed in this additional text: "10. Select one or both task(s) - Mail Routing and replication. The task(s) you select will be performed each time this server is called. ... Replication exchanges data with all databases for which you have local replicas, including Notes mail if you use it." (BBB p. 207)</p> <p><u>Second store:</u> "a replica is a copy of a shared database that you store either on a network server or on your hard disk." (BBB p. 214) A POSA would understand that the hard disk is merely an example of any of several computer storage means used by the client application, and that the client application could be mounted on any of a number of different computing devices including a smart phone. Lotus Notes does not explicitly disclose a smart phone.</p>
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a synchronization-start module for operating within the first firewall and for initiating the general synchronization module and the synchronization agent when predetermined criteria have been satisfied;	<p>The Texas Court defined "synchronization-start module to mean 'software routines or code which initiate the synchronization process . . . However, the court does not read the claims or the specification to require, necessarily, that the synchronization-start module be located within a firewall-protected corporate LAN.' Order at 26-27.</p>	<p>Lotus Notes discloses software that operates at the server (within the firewall) to initiate synchronization of documents when predetermined criteria are satisfied.</p> <p><u>Synchronization-start module:</u> A POSA would understand this to be the computing entity at the server carrying out a data exchange with the client and initiating replication (e.g. synchronization): "Replication for a local database on a workstation occurs when you perform a data exchange using the Tools&gt;Replicate command." (BBB p. 570) Here the "predetermined criteria" is the schedule for data exchange: "Replication is typically scheduled every few hours of a work day for Notes databases with time-sensitive information." (BBB p. 570)</p> <p><u>Synchronization-start module within the first firewall:</u> A POSA would understand the first firewall to be the server-protecting firewall described in the "communication channel through a firewall" box above.</p> <p><u>Initiating the general synch module and the synch agent under predetermined criteria,</u> as illustrated in an illustrative synchronization setup screen:  <u>"Scheduled calling</u>  Enabled/Disabled: SCHEDULE ENABLED</p>

		<p>Call at time: 08:00AM-06:00PM, each day  Repeat interval of: 360, minutes  Days of week: Mon, Tue, Wed, Thu, Fri, Sat, Sun  Tasks: Replication, Mail routing  Route at once if: "5, mail messages pending  Routing cost: 5  Replicate databases of priority: Low &amp; Medium &amp; High" (BBB, Fig. 10.1, p. 206) A POSA would understand that the scheduling of synchronization constitutes predetermined criteria.</p> <p>"The task(s) you select will be performed each time this server is called. ... Replication exchanges data with all databases for which you have local replicas, including Notes mail if you use it." (BBB p. 207) A POSA would understand that the replication task includes initiating the general synch module and the synch agent that are exchanging data.</p>
means for generating a <u>preferred version</u> from the first workspace element and from the copy by comparing the first version information and the second version information, wherein if only one of the first workspace element and the copy has been modified, then the means for generating selects the one as the preferred version; and	<p>The Texas Court defined "the term 'preferred version' to mean 'a version of a workspace element that is generated or selected from one or more versions.'" Order at 26.</p> <p>The Texas Court stated that the structure for the "means for generating a preferred version from the first workspace element and from the copy by comparing the first version information and the second version information" "is the general synchronization module 425." Order at 30.</p>	<p>Lotus Notes discloses generating a preferred version by comparing two versions.</p> <p>"To update a database replica with information from the source database (and to update the shared database with information that you create locally), you perform replication." (BBB p. 214)</p> <p>"The two copies of the database are now out of synch with each other because changes have been made to them separately. Both copies must now be resynchronized and made identical again through replication." (BBB p. 568)</p>

		<p><u>Preferred version</u> defined as that with the most changes or the latest date: "Notes compares the different copies of the same database and saves the most recent version (according to the date the changes were made) or the version with the most changes. Subsequently, the server stores the most current version of the database for users to continue to access. ... If a user makes changes in a copy of the database, replication ensures that those changes are added to all copies ...". (BBB p. 35) As noted above in the "a synchronization agent operating outside the first firewall" box, version information consists of at minimum the number of changes plus one or more time stamps indicating when those changes were made.</p> <p><u>Selecting as preferred version</u> the one changed if only one has been changed:</p> <p>The quote below makes clear that the comparison results in selecting as preferred version the version that is most changed, which would be the only one changed in this case.</p> <p>"Sometimes two users might edit the same document between data exchanges, resulting in simultaneous updates. The replicas contain different information until the next time the servers replicate. ... Notes handles the situation by maintaining a revision history of each document. During replication, Notes updates the revision history and detects the concurrent updates. At this point, Notes designates the update with the most changes as the main (original)</p>
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		<p>document, or the "winner". The other revised documents are considered response documents, or "losers". (In case of a tie, the most recent update wins.) ... The losers are considered "conflicting" documents and are labeled with [Replication or Save Conflict]. Users can see immediately that a conflict has occurred and must be resolved."</p>
means for storing the preferred version at the first store and at the second store.	The Texas Court stated that the structure for the "Means for storing the preferred version at the first store and the second store" "is the general synchronization module 425." Order at 31.	<p>Lotus Notes discloses storing the preferred version at the server and the client.</p> <p>"Subsequently, the server stores the most current version of the database for users to continue to access..." (BBB p. 35) The server has already been identified as the location of the first store, so the preferred version is stored at the first store.</p> <p>Subsequent storage of the preferred version at the second store occurs in the next scheduled replication session.</p>